

# EXHIBIT 47

**TSK! TSK!: EXAMINING A  
"CREATOR"/"CREATION" CLAIM**

c. 2002 Steve Ditko

Stan Lee's open letter, "To Whom It May Concern", dated 8/18/99, published in *The Comics* (Nov. 1999) and reprinted in *Steve Ditko's 32-Page Package*, contains errors and a well-used fallacy.

Stan says, "I have always considered Steve Ditko to be Spider-man's co-creator."

My rebuttal: 'Consider' means to ponder, look at, closely examine, etc. and does not admit, or claim, or state that Steve Ditko *is* Spider-man's co-creator.

Stan's statement contradicts some of his earlier claims that the "first sayers" of the "idea" is the creator.

In "Newswatch", *The Comics Journal* #111, Sept. 1986, page 13, Stan says, "It seems to me that the person who says, 'This is the idea I want done,' is the person who created it." And, "...it's the guy who says, 'Let there be a Hulk, and, lo, there was a Hulk. The guy who says it, he's the creator. The guy who drew it is just drawing it after the creator told him to draw it.'"

Setting aside the dispute between Stan and Jack Kirby as to the "creation" of The Hulk, their Hulk "idea", "creation", failed. Stan and I did the sixth and last issue (Mar. 1963) of that Hulk series.

I was instrumental in bringing out the second version of The Hulk with *different "ideas"* by Stan and me. The second Hulk went on to continuing success.

The fallacy is *post hoc, ergo propter hoc*. It's just because something—B—follows a prior something else—A, therefore, A is the cause of B. A time sequence is given *causal efficacy*.

The *post hoc* fallacy is rampant in superstitions. A person's accident (B) is blamed on, *caused by*, A, a black cat that previously crossed his path.

Arsenic (A) is *sufficient* to cause death (B) but all deaths are *not* caused by arsenic (A).

An idea is necessary but *not* sufficient to cause an effect.

The fallacy is seen with the first published Spider-man cover. It was widely believed that since Kirby, the penciler, come *first*—is A—, he had the "idea" for S-m's costume (had "created" it) while I—B—came later, just copied it and inked it (or, could only just copy the "*already created*" costume).

The fallacy was exposed later when **it became publicly known and shown that I had previously penciled and inked a first S-m cover that Stan rejected**. My *original* cover has been reprinted numerous times, initially in *Marvelmania* 2, 1970. It was then learned that Kirby actually penciled the second S-m cover (from a different compositional angle) which I inked. So the public A was actually the B and the *believed B was the actual A*.

Stan wrote, "When I first told Steve my idea for a shy, teenaged high-school science student who'd been bitten by a radioactive spider, thus gaining the ability to

stick to walls and shoot webs, Steve took to it like a duck to water."

There was a previous, rejected five penciled page S-m "idea" by Kirby (or Lee and Kirby) that had an *adult* S-m (with a *different* costume) and a web *gun* (exposed gun belt and holster).

The error and fallacy is in Stan's "*my idea*" about S-m's "ability to stick to walls and shoot webs." Stan's "*my idea*" is never supported but stated as self-evident, already proven, *because* I drew sticking and web-shooting scenes in the stories.

The erroneous implication is that *whatever* I drew or *however* I drew it, none of it could have come from any *new* or *original* ideas of mine. Once again, all of B (ideas, art) could *not* be otherwise because everything, every "idea" was *already specifically established, detailed, determined* by A's prior "saying". I could only visually *copy* A's prior "saying".

Stan's S-m synopsis to me did not mention any (two) wrist web shooters, or hidden belt, or any specific costume or specific spider-like actions. Those are my *ideas* and *creation*.

Real spiders *naturally* spin webs, move on web lines and stick to walls. No one can "*create*" spider abilities. But *how* a spider-hero does it (two wrist web-shooters versus a web gun, etc.) is again, mine.

A word is not the same as the physically existing entity or action described. One can have an idea about a flying hero: Superman, Blackhawks, Hawkman, Bulletman, Starman, Black Condor, Golden Lad, Ray, etc. And many men had ideas about manned flight that failed until the Wright brothers' ideas and creation succeeded.

*How* it is done can determine the actual 'what', the success or failure.

If all that matters is the "idea", then *no* artist is *better* than any other. I and Kirby and all other artists must draw the "idea" the *same way* from a "saying", a synopsis, *to the published comic*.

It is *word magic* to believe a word or the "idea" or the "saying" *must conjure up*, "create", the actual physical thing or its success. It is actually a form of *determinism* and denies *free will choices*, alternatives, possibilities with *acting agents*, another's *independent thought and action*.

The 'first claimers' in comics should be held to the *burden of proof*. *Truth* is the correct identification of a fact of reality. When actual facts, evidence or proof is not available, there should be a *suspended judgement* until some offered testimony has validity.

There should be an avoidance of resorting to, accepting, publishing and spreading fallacies, some *emotional "truth"*.